

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3308 of 1990

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

JAGDISH U NANAVATY

Versus

STATE OF GUJARAT

Appearance:

MR MEHTA for PV HATHI for Petitioners
MR RJ OZA for Respondent No. 1
NOTICE NOT RECD BACK for Respondent No. 3
MR VM PANCHOLI AGP for STATE

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 10/02/2000

ORAL JUDGEMENT

Mr. Mehta, the learned advocate appearing for the petitioners informs that pending this petition, the petitioner no. 4 has passed away. Leave to delete the

name of petitioner no. 4.

2. The petitioners before this Court are all Lecturers serving in the respondent no.3 College, a Government Law College (hereinafter referred to as 'the College'), who claim a right to be continued in service even after expiry of the term of their appointment. Under order dated 4th August, 1989 made by the Deputy Director of Education, the petitioner no. 1 was appointed as a Lecturer in the College for the Academic Year 1989-90. His service was terminable without notice at the end of the academic year. The petitioner no. 2 was appointed as a Full-Time Lecturer in the College by the Acting Principal of the College under his order dated 4th August, 1989. The said appointment was for the academic year 1989-90 and was made terminable without notice at the end of the academic year. Similarly, the petitioner no. 3 was appointed as a Part-Time Lecturer in the College by the Acting Principal under his order dated 29th September, 1989. The appointment was made for the academic year 1989-90 and was terminable without notice at the end of the academic year. Just before the end of the academic year, i.e., on 18th April, 1990, the petitioners have presented this petition and have claimed a right to be continued in service even after the end of the academic year 1989-90. The petition was admitted to final hearing and the petitioners' service has been protected under the interim orders.

3. It appears that all the respondents herein i.e., the State Government, the Director of Higher Education and the Principal of the College are all satisfied with this arrangement. Neither of the respondents has contested the petition. However, Mr. Pancholi relies upon the judgment of this Court in the matter of Arjunbhai J. Chauhan v. State of Gujarat [1997 (3) GLR 2461] and contends that by virtue of the orders of temporary appointment, no right to employment has accrued to the petitioners.

4. Upon perusal of the appointment orders, it is apparent that the said appointments were made by the authority subordinate to the competent authority i.e., the State Government and that too for a limited period i.e., till the end of the academic year. It is also stipulated that these appointments were temporary and were made by way of local arrangement. I am of the view that neither of the petitioners can lay claim to the permanent employment by virtue of these appointment orders. Not only the petitioners' appointments are not made after following the due procedure, they are not even made by

the competent authority i.e., the State Government. It is not disputed that the State Government is the competent authority and that the selection is required to be made by the Gujarat Public Service Commission, a Constitutional authority. The petitioners' appointments are not only irregular, their continuance in service even after the expiry of the term of their appointment is also irregular. Such a position cannot be continued for a long period. However, since the petitioners have continued in service for more than 10 years, they may be permitted to continue till the expiry of the academic year 2000-2001.

5. In the meantime, the respondents shall initiate the process of making selection for regular appointment to the posts in question. Whether such selections are made or not, the petitioners shall have no right to continue in service beyond the end of the academic term 2000-2001.

6. It is, therefore, directed that the State Government, the respondent no. 1 herein, shall within a period of eight weeks from today, make a requisition to the Public Service Commission for selection for appointment to the post of Lecturers [Part Time/Full Time] in the Government Law Colleges in the State of Gujarat. The State Government shall also impress upon the Public Service Commission, the urgency of the matter and shall request the Public Service Commission to complete the recruitment procedure and to forward the Select List to the State Government within a period of six months from the date of the receipt of the requisition. Upon duly selected Lecturers being made available, the petitioners shall have no right to continue in employment. If such a list is made available before the expiry of the academic term 2000-2001, the petitioners' service may be terminated even during the said academic term. The compliance hereof shall be reported to this Court on or before 1st November, 2000. In the event, the compliance hereof is not reported by 1st November, 2000, the registry shall report the same to the Court.

6. Subject to the above direction, the petition is disposed of. Rule is discharged. Parties shall bear their costs. The Registry is directed to send the writ forthwith.

Prakash*